

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-351-C - ORDER NO. 2006-162
MARCH 13, 2006

IN RE: Application of AmeriVon, LLC for a) ORDER
Certificate of Public Convenience and) GRANTING
Necessity to Provide Resold Interexchange) CERTIFICATE AND
Telecommunications Services and for) REQUIRING BOND
Approval of Its Initial Tariff)

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of AmeriVon, LLC (“AmeriVon” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange communications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 and 58-9-520 (Supp. 2004) and the general regulatory authority of the Commission. By its Application, the Company also requests waiver of certain Commission regulations. AmeriVon proposes to offer outbound “1+” service and interexchange travel card services.

The Commission’s Docketing Department instructed AmeriVon to publish, one time, a Notice of Filing and Hearing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of AmeriVon and of the manner and time in which to

file the appropriate pleadings for participation in the proceeding. AmeriVon complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing. No Protests or Petitions to Intervene were received.

A hearing was convened on February 6, 2006, at 10:00 a.m. in the Commission's Meeting Room, Columbia, South Carolina, before David Butler, Hearing Examiner. AmeriVon was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by Nanette S. Edwards, Esquire. Prior to the presentation of testimony, it was announced that the parties had reached an agreement on revisions to the Company's interexchange tariff. Revised tariffs were submitted into the record as Hearing Exhibit No. 1.

Robert B. Segal, CEO and President of the Company, appeared and testified in support of the Application. The record reveals that AmeriVon is incorporated in Nevada as a limited liability company and registered to transact business in South Carolina as a foreign corporation.

AmeriVon's services will be offered twenty-four hours per day, seven days a week. It does intend to employ sales agents. Mr. Segal explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. Segal also discussed AmeriVon's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Segal offered that AmeriVon possesses sufficient financial resources to support its operations in South Carolina. The Hearing Examiner held the record open for a late-filed hearing

exhibit, which consisted of financials updating those submitted with the Company's Application. This was denominated as Hearing Exhibit No. 2, and was subsequently received for submission into the record of the case. Although the financial information presented shows information typical of a company that is just beginning its operations, Mr. Segal testified that AmeriVon has \$5 million in assets available to it if needed.

With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, and has had no licenses revoked in any jurisdictions. The Company's Application and Mr. Segal's testimony both evidence that AmeriVon's management team has extensive experience in both marketing and communications. Mr. Segal also testified that AmeriVon will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Segal testified that the Company proposed to sell devices at retail stores which would "dial around" a potential customer's pre-subscribed long distance carrier and get them into the Company's system. The purchase of the dialer would also entitle the customer to \$10.00 credit in his or her account. When the customer's credit gets down to \$5.00 after the placement of long-distance calls, the customer would be contacted about replenishing that account with additional funds to fund future calls. AmeriVon accepts replenishment by credit card, debit card, Western Union mailgram, or other legal tender.

Mr. Segal noted that the target market of the Company consisted of former residents of Central and South America, who are now in the United States, and who have the need and/or desire to call their former home countries. Thus, the main thrust of the

Company's market is international long-distance. However, the Company is seeking Certificates to provide in-state long distance services in various states nationwide as part of its business plan.

Mr. Segal further stated in his testimony that approval of AmeriVon's Application would serve the public interest by increasing the level of competition in South Carolina. Mr. Segal, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 which would allow the Company to keep its financial records at its headquarters in Nevada. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). AmeriVon maintains its books in accordance with Generally Accepted Accounting Principles (GAAP).

At the end of the proceeding, counsel for the Office of Regulatory Staff moved that the Company be ordered to post a \$5,000 bond for the protection of the public, should the Company be granted a Certificate of Public Convenience and Necessity by this Commission. Her reasoning was that monies would be collected in advance for services, much as monies are collected in advance for the use of pre-paid telephone debit cards. This Commission has historically required a \$5,000 bond for non-facilities based companies offering pre-paid telephone debit cards for sale. See Order No. 93-600, in Docket No. 93-114-C, dated July 6, 1993, Application of World Telecom Group, Inc. for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Intrastate Telecommunications Services Within the State of South Carolina.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. AmeriVon is organized under the laws of the State of Nevada as a limited liability company and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. AmeriVon has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. AmeriVon desires to operate as a reseller of interexchange telecommunications services in South Carolina.

4. AmeriVon possesses the managerial and technical experience and capability to operate as a non-facilities based reseller of interexchange telecommunications services in South Carolina.

5. Based on the financial records, balance sheets, and testimony submitted by the Company, AmeriVon possesses sufficient financial resources to provide the services as described in its Application.

6. Issuance of a Certificate of Public Convenience and Necessity to AmeriVon to operate as a reseller of interexchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

7. AmeriVon has no plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds AmeriVon's requested waiver reasonable and understands the difficulty presented to AmeriVon should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

8. The circumstances of this case merit the requirement that a \$5,000 bond be posted by the Company for the protection of the public.

CONCLUSIONS OF LAW

1. The Commission concludes that AmeriVon possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that AmeriVon will provide services which will meet the service standards of the Commission.

3. The Commission concludes that approval of AmeriVon's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

4. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by AmeriVon and as

set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to AmeriVon to provide intrastate interexchange telecommunications services.

10. We conclude that AmeriVon's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on AmeriVon. We also grant exemption from the policies requiring the use of USOA.

11. We conclude that the Company should post a \$5,000 bond for the protection of the public, prior to offering the services proposed. It appears to this Commission that the Company's target audience is a particularly susceptible one, in terms of possible unfamiliarity with the English language and unfamiliarity with American customs and laws. Also, the nature of the service proposed by AmeriVon is such that, for the most part, a subscriber must pay for services before the services are rendered, much like the case of the pre-paid debit cards authorized in Order No. 93-600. This Commission believes that a bond is necessary for the protection of the subscribers in South Carolina until such time as the Company has operated in the State and has had the opportunity to demonstrate its stability. Therefore, the Commission requires as a condition to the granting of a Certificate that AmeriVon post a bond with the Commission by delivering to the Commission either Certificates of Deposit or a surety bond in the amount of Five Thousand (\$5,000.00) Dollars in such form as would allow

the Commission to liquidate the bond in the event that the Company is unwilling or unable to deliver its prepaid services to its subscribers. Certificates of Deposit shall be drawn on Federal or State chartered banks who maintain an office in this State and whose accounts are insured by the Federal Deposit Insurance Corporation. If the Company wishes to employ a surety bond, such bond shall be written by a Company licensed to write such bonds in South Carolina. After twelve (12) months from the date of this Order, the Commission will review the Company's financial reports and reassess the requirement of AmeriVon maintaining the bond. The Company shall not begin offering its services in South Carolina until the bond described herein is posted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to AmeriVon to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, conditioned on the posting of a bond as described above.

2. The Commission adopts a rate design for AmeriVon for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In re: Application

of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. AmeriVon shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. AmeriVon shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of AmeriVon's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. Section 58-9-540 (Supp. 2005).

4. If it has not already done so by the date of issuance of this Order, AmeriVon shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, and the revised tariffs filed as a hearing exhibit.

5. AmeriVon is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. AmeriVon shall resell the services of only those interexchange carriers authorized to do business in South Carolina by this Commission. If AmeriVon changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, AmeriVon shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, AmeriVon shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

9. AmeriVon shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, AmeriVon shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled “Gross Receipts Form.”

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. AmeriVon shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

11. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

12. At the hearing, AmeriVon requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2005), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that AmeriVon’s principal headquarters will be located outside of South Carolina. AmeriVon requests

permission to maintain its books and records at its headquarters in its home office. The Commission finds AmeriVon's requested waiver reasonable and understands the difficulty presented to AmeriVon should the waiver not be granted. The Commission therefore grants the requested waiver that AmeriVon be allowed to maintain its books and records at its principal headquarters. However, AmeriVon shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and AmeriVon shall promptly notify the Commission and ORS if the location of its books and records changes.

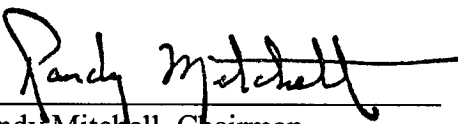
13. AmeriVon also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, AmeriVon maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Accordingly, AmeriVon requests an exemption from the USOA requirements and the applicable regulation. We grant the Company's request for the reasons stated above.

14. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

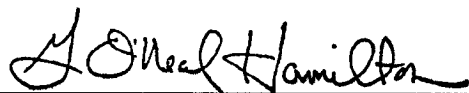
15. AmeriVon shall post the bond as described above.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Randy Mitchell, Chairman

ATTEST:


G. O'Neal Hamilton, Vice-Chairman

(SEAL)